

Assembly Bill No. 2800

CHAPTER 385

An act to amend Sections 1525, 1528, 1580, 2852, 8610.14, 10503, and 10711 of, and to add Article 5 (commencing with Section 1590) to Chapter 5 of Division 2 of, the Fish and Game Code, and to amend Sections 5001.65, 5003.1, 5019.50, 5019.53, 5019.56, 5019.59, 5019.62, 5019.65, 5019.71, and 5019.74 of, to add Sections 538, 5001.4, and 5019.80 to, and to add Chapter 7 (commencing with Section 36600) to Division 27 of, the Public Resources Code, relating to marine resources, and making an appropriation therefor.

[Approved by Governor September 8, 2000. Filed
with Secretary of State September 11, 2000.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2800, Shelley. Marine Managed Areas Improvement Act.

(1) Existing law declares it is the state policy to assess the long-term values and benefits of the conservation and development of ocean resources and uses with the objective of restoring or maintaining the health of the ocean ecosystem and ensuring the proper management of renewable and nonrenewable resources.

This bill would establish the Marine Managed Areas Improvement Act, which, among other things, would prescribe 6 classifications for designating managed areas in the marine and estuarine environments to ensure the long-term ecological viability and biological productivity of marine ecosystems and to preserve cultural resources in the coastal sea. The bill would make certain conduct within those areas unlawful, thereby imposing a state-mandated local program by creating new crimes.

The bill would require the Secretary of the Resources Agency to establish and chair a State Interagency Coordinating Committee, with representatives from state entities with jurisdiction or management interests over marine managed areas. The bill would require the committee to review proposals for new or amended marine managed areas.

The bill also would require the secretary to establish a scientific review panel, with statewide representation. The bill would require the panel to evaluate the proposals for technical and scientific validity.

The bill would authorize the State Park and Recreation Commission, the Department of Parks and Recreation, the State Water Resources Control Board, the Fish and Game Commission, and the Department of Fish and Game to take certain actions and

would impose certain duties on those entities in connection with the designation and management of certain managed areas.

The bill would make related and conforming changes.

(2) Existing law continuously appropriates money in the Fish and Game Preservation Fund to the Fish and Game Commission and the Department of Fish and Game to carry out laws for the protection and preservation of birds, mammals, reptiles, and fish and for the expenses of the commission.

By authorizing and requiring the commission and the department to perform new duties, the bill would make an appropriation.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Appropriation: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 1525 of the Fish and Game Code is amended to read:

1525. For the purposes of propagating, feeding and protecting birds, mammals, and fish, and establishing wildlife management areas or public shooting grounds the department, with the approval of the commission, may do all of the following:

(a) Accept, on behalf of the state, donations of birds, mammals, and fish, and of money given or appropriated. Those donations shall be used for the purposes for which they are accepted, and, as nearly as may be, for any purpose indicated by the donor.

(b) Acquire, by purchase, lease, rental or otherwise, and occupy, develop, maintain, use and administer, land, or land and nonmarine water, or land and nonmarine water rights, suitable for state game farms, wildlife management areas, or public shooting grounds.

SEC. 2. Section 1528 of the Fish and Game Code is amended to read:

1528. Lands, or lands and water, acquired for public shooting grounds, state marine (estuarine) recreational management areas, or wildlife management areas shall be operated on a nonprofit basis by the department. Multiple recreational use of wildlife management areas is desirable and that use shall be encouraged by the commission. Except for hunting and fishing purposes, only minimum facilities to permit other forms of multiple recreational use, such as camping, picnicking, boating, or swimming, shall be provided. Except as provided in Section 1765, and to defray the costs associated with multiple use, the commission may determine and fix the amount of, and the department shall collect, fees for any use

privileges. However, tours by organized youth and school groups are exempt from the payment of those fees. Only persons holding valid hunting licenses may apply for or obtain shooting permits for public shooting grounds, state marine (estuarine) recreational management areas, or wildlife management areas.

SEC. 3. Section 1580 of the Fish and Game Code is amended to read:

1580. The Legislature hereby declares that the policy of the state is to protect threatened or endangered native plants, wildlife, or aquatic organisms or specialized habitat types, both terrestrial and nonmarine aquatic, or large heterogeneous natural gene pools for the future use of mankind through the establishment of ecological reserves. For the purpose of establishing those ecological reserves, the department, with the approval of the commission, may obtain, accept on behalf of the state, acquire, or control, by purchase, lease, easement, gift, rental, memorandum of understanding, or otherwise, and occupy, develop, maintain, use, and administer land, or land and nonmarine water, or land and nonmarine water rights, suitable for the purpose of establishing ecological reserves. Any property obtained, accepted, acquired, or controlled by the department pursuant to this article may be designated by the commission as an ecological reserve. The commission may adopt regulations for the occupation, utilization, operation, protection, enhancement, maintenance, and administration of ecological reserves. The ecological reserves shall not be classified as wildlife management areas pursuant to Section 1504 and shall be exempt from Section 1504.

SEC. 4. Article 5 (commencing with Section 1590) is added to Chapter 5 of Division 2 of the Fish and Game Code, to read:

Article 5. Classification of Marine Managed Areas with Harvest
Restrictions

1590. The commission may designate, delete, or modify state marine (estuarine) recreational management areas established by the commission for hunting purposes, state marine (estuarine) reserves, and state marine (estuarine) conservation areas, as delineated in subdivision (a) of Section 36725 of the Public Resources Code. The commission shall consult with, and secure concurrence from, the State Park and Recreation Commission prior to modifying or deleting marine (estuarine) reserves and marine (estuarine) conservation areas designated by the State Park and Recreation Commission. The commission shall not delete or modify state marine (estuarine) recreational management areas designated by the State Park and Recreation Commission.

1591. (a) The Marine Managed Areas Improvement Act (Chapter 7 (commencing with Section 36600) of Division 27 of the Public Resources Code) establishes a uniform classification system



for state marine managed areas and is incorporated herein by reference. Any proposals for marine protected areas made after January 1, 2002, shall follow the guidelines set forth in that act. Pursuant to Section 36750 of the Public Resources Code, all marine protected areas in existence and not reclassified in accordance with the Marine Life Protection Act (Chapter 10.5 (commencing with Section 2850) of Division 3) on January 1, 2002, shall be reclassified by the State Interagency Coordinating Committee established pursuant to Section 36800 of the Public Resources Code into one of the following classifications:

- (1) State marine (estuarine) reserve.
- (2) State marine (estuarine) park.
- (3) State marine (estuarine) conservation area.

(b) State marine (estuarine) recreational management areas established by the commission for hunting purposes, state marine (estuarine) reserves, and state marine (estuarine) conservation areas shall be designated, deleted, or modified by the commission pursuant to that act. The restrictions and allowable uses applicable to those areas are as set forth in that act.

SEC. 5. Section 2852 of the Fish and Game Code is amended to read:

2852. The following definitions govern the construction of this chapter:

(a) “Adaptive management,” with regard to marine protected areas, means a management policy that seeks to improve management of biological resources, particularly in areas of scientific uncertainty, by viewing program actions as tools for learning. Actions shall be designed so that, even if they fail, they will provide useful information for future actions, and monitoring and evaluation shall be emphasized so that the interaction of different elements within marine systems may be better understood.

(b) “Biogeographical regions” refers to the following oceanic or near shore areas, seaward from the mean high tide line or the mouth of coastal rivers, with distinctive biological characteristics, unless the master plan team establishes an alternative set of boundaries:

- (1) The area extending south from Point Conception.
- (2) The area between Point Conception and Point Arena.
- (3) The area extending north from Point Arena.

(c) “Marine protected area” (MPA) means a named, discrete geographic marine or estuarine area seaward of the mean high tide line or the mouth of a coastal river, including any area of intertidal or subtidal terrain, together with its overlying water and associated flora and fauna that has been designated by law, administrative action, or voter initiative to protect or conserve marine life and habitat. An MPA includes marine life reserves and other areas that allow for specified commercial and recreational activities, including fishing for certain species but not others, fishing with certain



practices but not others, and kelp harvesting, provided that these activities are consistent with the objectives of the area and the goals and guidelines of this chapter. MPAs are primarily intended to protect or conserve marine life and habitat, and are therefore a subset of marine managed areas (MMAs), which are broader groups of named, discrete geographic areas along the coast that protect, conserve, or otherwise manage a variety of resources and uses, including living marine resources, cultural and historical resources, and recreational opportunities.

(d) “Marine life reserve,” for the purposes of this chapter, means a marine protected area in which all extractive activities, including the taking of marine species, and, at the discretion of the commission and within the authority of the commission, other activities that upset the natural ecological functions of the area, are prohibited. While, to the extent feasible, the area shall be open to the public for managed enjoyment and study, the area shall be maintained to the extent practicable in an undisturbed and unpolluted state.

SEC. 6. Section 8610.14 of the Fish and Game Code is amended to read:

8610.14. (a) Prior to January 1, 1994, the commission shall establish four new ecological reserves in ocean waters along the mainland coast. Each ecological reserve shall have a surface area of at least two square miles. The commission shall restrict the use of these ecological reserves to scientific research relating to the management and enhancement of marine resources, including, but not limited to, scientific research as it relates to sportfishing and commercial fishing.

Recreational uses, including, but not limited to, hiking, walking, viewing, swimming, diving, surfing, and transient boating are not in conflict with this section.

(b) Prior to establishing the four ecological reserves, the commission shall conduct a public hearing at each of the recommended sites or at the nearest practicable location.

(c) On and after January 1, 2002, the four ecological reserves established pursuant to subdivision (a) shall be called state marine reserves, unless otherwise reclassified pursuant to Section 2855, and shall become part of the state system of marine managed areas.

SEC. 7. Section 10503 of the Fish and Game Code is amended to read:

10503. For the purposes of propagating, feeding, and protecting birds, mammals, fish, and amphibia the commission may do all of the following:

(a) Accept, on behalf of the state, donations of any interest in lands within any refuge.

(b) Accept, on behalf of the state, from any person owning and in possession of patented lands, except lands that are covered and uncovered by the ordinary daily tide of the Pacific Ocean, the right



to preserve and protect all birds, mammals, fish, and amphibia on the patented lands.

(c) Accept, on behalf of the state, donations of birds, mammals, fish, and amphibia, and of money given or appropriated. Those donations shall be used for the purposes for which they are accepted, and, as nearly as may be, for any purpose indicated by the donor.

(d) Acquire, by purchase, lease, rental, or otherwise, and occupy, develop, maintain, use, and administer land, or land and nonmarine water, or land and nonmarine water rights, suitable for state game farms or game refuges.

SEC. 8. Section 10711 of the Fish and Game Code is amended to read:

10711. The commission may close for the taking of clams not less than eight land miles of pismo clam bearing beaches within San Luis Obispo County as a clam refuge, but not more than 50 percent of any individual pismo clam bearing beach or beaches may be so closed at any time. The commission may from time to time vary the location of the closed and open portions of those beaches.

Before the commission closes, opens, or varies the location of the closed and open portions of pismo clam bearing beaches, one or more members of the commission shall hold in the county to be affected a public hearing, notice of which has been published at least once in a newspaper of general circulation, printed, and published in that county. The commission may determine which newspaper will be most likely to give notice to the inhabitants of the county, and its determination shall be final and conclusive. The commission may authorize any employee of the department in its place to hold the hearings, in which event a copy of a transcript of all proceedings taken or had at the hearing shall be furnished to each commissioner at least five days before any regulation is made by the commission.

SEC. 9. Section 538 is added to the Public Resources Code, to read:

538. The commission may designate, delete, or modify state marine (estuarine) reserves, state marine (estuarine) parks, state marine (estuarine) conservation areas, state marine (estuarine) cultural preservation areas, and state marine (estuarine) recreational management areas, as delineated in subdivision (b) of Section 36725. The commission may not designate, delete, or modify a state marine (estuarine) reserve, state marine (estuarine) park, or state marine (estuarine) conservation area without the concurrence of the Fish and Game Commission on any proposed restrictions upon, or change in, the use of living marine resources.

SEC. 10. Section 5001.4 is added to the Public Resources Code, to read:

5001.4. The department may manage state marine (estuarine) reserves, state marine (estuarine) parks, state marine (estuarine) conservation areas, state marine (estuarine) cultural preservation



areas, state marine (estuarine) recreational management areas and, if requested by the State Water Resources Control Board, state water quality protection areas. Department authority over units within the state park system shall extend to units of the state MMAs system that are managed by the department.

SEC. 11. Section 5001.65 of the Public Resources Code is amended to read:

5001.65. Commercial exploitation of resources in units of the state park system is prohibited. However, slant or directional drilling for oil or gas with the intent of extracting deposits underlying the Tule Elk State Reserve in Kern County is permissible in accordance with Section 6854. Commercial fishing is permissible, unless otherwise restricted, in state marine (estuarine) conservation areas, state marine (estuarine) cultural preservation areas, and state marine (estuarine) recreational management areas.

Qualified institutions and individuals shall be encouraged to conduct nondestructive forms of scientific investigation within state park system units, upon receiving prior approval of the director.

The taking of mineral specimens for recreational purposes from state beaches, state recreation areas, or state vehicular recreation areas is permitted upon receiving prior approval of the director.

SEC. 12. Section 5003.1 of the Public Resources Code is amended to read:

5003.1. The Legislature finds and declares that it is in the public interest to permit hunting, fishing, swimming, trails, camping, campsites, and rental vacation cabins in certain state recreation areas, or portions thereof, when it is found by the State Park and Recreation Commission that such multiple use of state recreation areas would not threaten the safety and welfare of other state recreation area users. Hunting shall not be permitted in any unit now in the state park system and officially opened to the public on or before June 1, 1961, or in any unit hereafter acquired and designated by the commission as a state park, state marine (estuarine) reserve, state marine (estuarine) park, state reserve, state marine (estuarine) conservation area, or state marine (estuarine) cultural preservation area, and may only be permitted in new recreational areas and state marine (estuarine) recreational management areas that are developed for that use.

Whenever hunting or fishing is permitted in a state recreation area or state marine (estuarine) recreational management area, and whenever fishing is permitted in a state park, state marine (estuarine) park, state marine (estuarine) cultural preservation area, or state marine (estuarine) conservation area, the Department of Fish and Game shall enforce hunting and fishing laws and regulations as it does elsewhere in the state.

SEC. 13. Section 5019.50 of the Public Resources Code is amended to read:

5019.50. All units that are or shall become a part of the state park system, except those units or parts of units designated by the Legislature as wilderness areas pursuant to Chapter 1.3 (commencing with Section 5093.30), or where subject to any other provision of law, including Section 5019.80 and Article 1 (commencing with Section 36600) of Chapter 7 of Division 27, shall be classified by the State Park and Recreation Commission into one of the categories specified in this article. Classification of state marine (estuarine) reserves, state marine (estuarine) parks, and state marine (estuarine) conservation areas, requires the concurrence of the Fish and Game Commission for restrictions to be placed upon the use of living marine resources.

SEC. 14. Section 5019.53 of the Public Resources Code is amended to read:

5019.53. State parks consist of relatively spacious areas of outstanding scenic or natural character, oftentimes also containing significant historical, archaeological, ecological, geological, or other similar values. The purpose of state parks shall be to preserve outstanding natural, scenic, and cultural values, indigenous aquatic and terrestrial fauna and flora, and the most significant examples of ecological regions of California, such as the Sierra Nevada, northeast volcanic, great valley, coastal strip, Klamath-Siskiyou Mountains, southwest mountains and valleys, redwoods, foothills and low coastal mountains, and desert and desert mountains.

Each state park shall be managed as a composite whole in order to restore, protect, and maintain its native environmental complexes to the extent compatible with the primary purpose for which the park was established.

Improvements undertaken within state parks shall be for the purpose of making the areas available for public enjoyment and education in a manner consistent with the preservation of natural, scenic, cultural, and ecological values for present and future generations. Improvements may be undertaken to provide for recreational activities including, but not limited to, camping, picnicking, sightseeing, nature study, hiking, and horseback riding, so long as those improvements involve no major modification of lands, forests, or waters. Improvements that do not directly enhance the public's enjoyment of the natural, scenic, cultural, or ecological values of the resource, which are attractions in themselves, or which are otherwise available to the public within a reasonable distance outside the park, shall not be undertaken within state parks.

State parks may be established in the terrestrial or nonmarine aquatic (lake or stream) environments of the state.

SEC. 15. Section 5019.56 of the Public Resources Code is amended to read:

5019.56. State recreation units consist of areas selected, developed, and operated to provide outdoor recreational

opportunities. The units shall be designated by the commission by naming, in accordance with Article 1 (commencing with Section 5001) and this article relating to classification.

In the planning of improvements to be undertaken within state recreation units, consideration shall be given to compatibility of design with the surrounding scenic and environmental characteristics.

State recreation units may be established in the terrestrial or nonmarine aquatic (lake or stream) environments of the state and shall be further classified as one of the following types:

(a) State recreation areas, consisting of areas selected and developed to provide multiple recreational opportunities to meet other than purely local needs. The areas shall be selected for their having terrain capable of withstanding extensive human impact and for their proximity to large population centers, major routes of travel, or proven recreational resources such as manmade or natural bodies of water. Areas containing ecological, geological, scenic, or cultural resources of significant value shall be preserved within state wildernesses, state reserves, state parks, or natural or cultural preserves, or, for those areas situated seaward of the mean high tide line, shall be designated state marine (estuarine) reserves, state marine (estuarine) parks, state marine (estuarine) conservation areas, or state marine (estuarine) cultural preservation areas.

Improvements may be undertaken to provide for recreational activities, including, but not limited to, camping, picnicking, swimming, hiking, bicycling, horseback riding, boating, waterskiing, diving, winter sports, fishing, and hunting.

Improvements to provide for urban or indoor formalized recreational activities shall not be undertaken within state recreation areas.

(b) Underwater recreation areas, consisting of areas in the nonmarine aquatic (lake or stream) environment selected and developed to provide surface and subsurface water-oriented recreational opportunities, while preserving basic resource values for present and future generations.

(c) State beaches, consisting of areas with frontage on the ocean, or bays designed to provide swimming, boating, fishing, and other beach-oriented recreational activities. Coastal areas containing ecological, geological, scenic, or cultural resources of significant value shall be preserved within state wildernesses, state reserves, state parks, or natural or cultural preserves, or, for those areas situated seaward of the mean high tide line, shall be designated state marine (estuarine) reserves, state marine (estuarine) parks, state marine (estuarine) conservation areas, or state marine (estuarine) cultural preservation areas.



(d) Wayside campgrounds, consisting of relatively small areas suitable for overnight camping and offering convenient access to major highways.

SEC. 16. Section 5019.59 of the Public Resources Code is amended to read:

5019.59. Historical units, to be named appropriately and individually, consist of nonmarine areas established primarily to preserve objects of historical, archaeological, and scientific interest, and archaeological sites and places commemorating important persons or historic events. The areas should be of sufficient size, where possible, to encompass a significant proportion of the landscape associated with the historical objects. The only facilities that may be provided are those required for the safety, comfort, and enjoyment of the visitors, such as access, parking, water, sanitation, interpretation, and picnicking. Upon approval by the commission, lands outside the primary historic zone may be selected or acquired, developed, or operated to provide camping facilities within appropriate historical units. Upon approval by the State Park and Recreation Commission, an area outside the primary historic zone may be designated as a recreation zone to provide limited recreational opportunities that will supplement the public's enjoyment of the unit. Certain agricultural, mercantile, or other commercial activities may be permitted if those activities are a part of the history of the individual unit and any developments retain or restore historical authenticity. Historical units shall be named to perpetuate the primary historical theme of the individual units.

SEC. 17. Section 5019.62 of the Public Resources Code is amended to read:

5019.62. State seashores consist of relatively spacious coastline areas with frontage on the ocean, or on bays open to the ocean, including water areas landward of the mean high tide line and seasonally connected to the ocean, possessing outstanding scenic or natural character and significant recreational, historical, archaeological, or geological values.

The purpose of state seashores shall be to preserve outstanding natural, scenic, cultural, ecological, and recreational values of the California coastline as an ecological region and to make possible the enjoyment of coastline and related recreational activities which are consistent with the preservation of the principal values and which contribute to the public enjoyment, appreciation, and understanding of those values.

Improvements undertaken within state seashores shall be for the purpose of making the areas available for public enjoyment, recreation, and education in a manner consistent with the perpetuation of their natural, scenic, cultural, ecological, and recreational value. Improvements which do not directly enhance the public enjoyment of the natural, scenic, cultural, ecological, or

recreational values of the seashore, or which are attractions in themselves, shall not be undertaken.

SEC. 18. Section 5019.65 of the Public Resources Code is amended to read:

5019.65. State reserves consist of areas embracing outstanding natural or scenic characteristics of statewide significance. The purpose of a state reserve is to preserve its native ecological associations, unique faunal or floral characteristics, geological features, and scenic qualities in a condition of undisturbed integrity. Resource manipulation shall be restricted to the minimum required to negate the deleterious influence of man.

Improvements undertaken shall be for the purpose of making the areas available, on a day use basis, for public enjoyment and education in a manner consistent with the preservation of their natural features. Living and nonliving resources contained within state reserves shall not be disturbed or removed for other than scientific or management purposes.

State reserves may be established in the terrestrial or nonmarine aquatic (lake or stream) environments of the state.

SEC. 19. Section 5019.71 of the Public Resources Code is amended to read:

5019.71. Natural preserves consist of distinct nonmarine areas of outstanding natural or scientific significance established within the boundaries of other state park system units. The purpose of natural preserves shall be to preserve such features as rare or endangered plant and animal species and their supporting ecosystems, representative examples of plant or animal communities existing in California prior to the impact of civilization, geological features illustrative of geological processes, significant fossil occurrences or geological features of cultural or economic interest, or topographic features illustrative of representative or unique biogeographical patterns. Areas set aside as natural preserves shall be of sufficient size to allow, where possible, the natural dynamics of ecological interaction to continue without interference, and to provide, in all cases, a practicable management unit. Habitat manipulation shall be permitted only in those areas found by scientific analysis to require manipulation to preserve the species or associations that constitute the basis for the establishment of the natural preserve.

SEC. 20. Section 5019.74 of the Public Resources Code is amended to read:

5019.74. Cultural preserves consist of distinct nonmarine areas of outstanding cultural interest established within the boundaries of other state park system units for the purpose of protecting such features as sites, buildings, or zones which represent significant places or events in the flow of human experience in California. Areas set aside as cultural preserves shall be large enough to provide for the effective protection of the prime cultural resources from potentially



damaging influences, and to permit the effective management and interpretation of the resources. Within cultural preserves, complete integrity of the cultural resources shall be sought, and no structures or improvements that conflict with that integrity shall be permitted.

SEC. 21. Section 5019.80 is added to the Public Resources Code, to read:

5019.80. (a) The Marine Managed Areas Improvement Act (Chapter 7 (commencing with Section 36600) of Division 27) establishes a uniform classification system for state marine managed areas and is incorporated herein by reference. Any proposals for marine managed areas made after January 1, 2002, shall follow the guidelines set forth in that act. Pursuant to Section 36750, existing marine areas within units of the state park system that have not been reclassified in accordance with the Marine Life Protection Act (Chapter 10.5 (commencing with Section 2850) of Division 3 of the Fish and Game Code) on January 1, 2002, shall be reclassified by the State Interagency Coordinating Committee into one of the following classifications:

- (1) State marine (estuarine) reserve.
- (2) State marine (estuarine) park.
- (3) State marine (estuarine) conservation area.
- (4) State marine (estuarine) cultural preservation area.
- (5) State marine (estuarine) recreational management area.

(b) The process for establishing, deleting, or modifying state marine (estuarine) reserves, state marine (estuarine) parks, state marine (estuarine) conservation areas, state marine (estuarine) cultural preservation areas, and state marine (estuarine) recreational management areas shall be established pursuant to that act. The restrictions and allowable uses applicable to those areas are as set forth in that act.

SEC. 22. Chapter 7 (commencing with Section 36600) is added to Division 27 of the Public Resources Code, to read:

CHAPTER 7. MARINE MANAGED AREAS IMPROVEMENT ACT

Article 1. General Provisions

36600. This chapter shall be known, and may be cited, as the Marine Managed Areas Improvement Act.

36601. (a) The Legislature finds and declares all of the following:

(1) California's extraordinary ocean and coastal resources provide a vital asset to the state and nation. These resources are important to public health and well-being, ecological health, and ocean-dependent industries.

(2) The ocean ecosystem is inextricably connected to the land, with coastal development, water pollution, and other human activities threatening the health of marine habitat and the biological

diversity found in California's ocean waters. New technologies and demands have encouraged the expansion of fishing and other activities to formerly inaccessible marine areas that once recharged nearby fisheries. As a result, ecosystems throughout the state's ocean waters are being altered, often at a rapid rate.

(3) California's marine managed areas (MMAs), such as refuges, reserves, and state reserves, are one of many tools for resource managers to use for protecting, conserving, and managing the state's valuable marine resources. MMAs can offer many benefits, including protecting habitats, species, cultural resources, and water quality; enhancing recreational opportunities; and contributing to the economy through such things as increased tourism and property values. MMAs may also benefit fisheries management by protecting representative habitats and reducing extractive uses.

(4) The array of state MMAs in California is the result of over 50 years of designations through legislative, administrative, and statewide ballot initiative actions, which has led to 18 classifications and subclassifications of these areas.

(5) A State Interagency Marine Managed Areas Workgroup was convened by the Resources Agency to address this issue, bringing together for the first time all of the state agencies with jurisdiction over these areas. This group's report indicates that California's state MMAs have evolved on a case-by-case basis, without conforming to any plan for establishing MMAs in the most effective way or in a manner which ensures that the most representative or unique areas of the ocean and coastal environment are included.

(6) The report further states that California's MMAs do not comprise an organized system, as the individual sites are not designated, classified, or managed in a systematic manner. Many of these areas lack clearly defined purposes, effective management measures, and enforcement.

(7) To some, this array of MMAs creates the illusion of a comprehensive system of management, while in reality, it falls short of its potential to protect, conserve, and manage natural, cultural, and recreational resources along the California coast. Without a properly designed and coordinated system of MMAs, it is difficult for agencies to meet management objectives, such as maintaining biodiversity, providing education and outreach, and protecting marine resources.

(8) Agency personnel and the public are often confused about the laws, rules, and regulations that apply to MMAs, especially those adjacent to a terrestrial area set aside for management purposes. Lack of clarity about the manner in which the set of laws, rules, and regulations for the array of MMAs interface and complement each other limits public and resource managers' ability to understand and apply the regulatory structure.

(9) Designation of sites and subsequent adoption of regulations often occur without adequate consideration being given to overall



classification goals and objectives. This has contributed to fragmented management, poor compliance with regulations, and a lack of effective enforcement.

(10) Education and outreach related to state MMAs is limited and responsibility for these activities is distributed across many state agencies. These factors hamper the distribution of information to the public regarding the benefits of MMAs and the role they can play in protecting ocean and coastal resources.

(11) There are few coordinated efforts to identify opportunities for public/private partnerships or public stewardship of MMAs or to provide access to general information and data about ocean and coastal resources within California's MMAs.

(12) Ocean and coastal scientists and managers generally know far less about the natural systems they work with than their terrestrial counterparts. Understanding natural and human-induced factors that affect ocean ecosystem health, including MMAs, is fundamental to the process of developing sound management policies.

(13) Research in California's MMAs can provide managers with a wealth of knowledge regarding habitat functions and values, species diversity, and complex physical, biological, chemical, and socioeconomic processes that affect the health of marine ecosystems. That information can be useful in determining the effectiveness of particular sites or classifications in achieving stated goals.

(b) With the single exception of state estuaries, it is the intent of the Legislature that the classifications currently available for use in the marine and estuarine environments of the state shall cease to be used and that a new classification system shall be established, with a mission, statement of objectives, clearly defined designation guidelines, specific classification goals, and a more scientifically-based process for designating sites and determining their effectiveness. The existing classifications may continue to be used for the terrestrial and freshwater environments of the state.

(c) Due to the interrelationship between land and sea, benefits can be gained from siting a portion of the state's marine managed areas adjacent to, or in close proximity to, terrestrial protected areas. To maximize the benefits that can be gained from having connected protected areas, whenever an MMA is adjacent to a terrestrial protected area, the managing agencies shall coordinate their activities to the greatest extent possible to achieve the objectives of both areas.

36602. The following definitions govern the construction of this chapter:

(a) "Committee" is the State Interagency Coordinating Committee established pursuant to Section 36800.

(b) "Designating entity" is the Fish and Game Commission, State Park and Recreation Commission, or State Water Resources Control



Board, each of which has the authority to designate specified state marine managed areas.

(c) “Managing agency” is the Department of Fish and Game or the Department of Parks and Recreation, each of which has the authority to manage specified state marine managed areas.

(d) “Marine managed area” (MMA) is a named, discrete geographic marine or estuarine area along the California coast designated by law or administrative action, and intended to protect, conserve, or otherwise manage a variety of resources and their uses. The resources and uses may include, but are not limited to, living marine resources and their habitats, scenic views, water quality, recreational values, and cultural or geological resources. General areas that are administratively established for recreational or commercial fishing restrictions, such as seasonal or geographic closures or size limits, are not included in this definition. MMAs include the following classifications:

(1) State marine (estuarine) reserve, as defined in subdivision (a) of Section 36700.

(2) State marine (estuarine) park, as defined in subdivision (b) of Section 36700.

(3) State marine (estuarine) conservation area, as defined in subdivision (c) of Section 36700.

(4) State marine (estuarine) cultural preservation area, as defined in subdivision (d) of Section 36700.

(5) State marine (estuarine) recreational management area, as defined in subdivision (e) of Section 36700.

(6) State water quality protection areas, as defined in subdivision (f) of Section 36700.

(e) “Marine protected area” (MPA), consistent with the Marine Life Protection Act (Chapter 10.5 (commencing with Section 2850) of Division 3 of the Fish and Game Code) is a named, discrete geographic marine or estuarine area seaward of the mean high tide line or the mouth of a coastal river, including any area of intertidal or subtidal terrain, together with its overlying water and associated flora and fauna that has been designated by law or administrative action to protect or conserve marine life and habitat. MPAs are primarily intended to protect or conserve marine life and habitat, and are therefore a subset of marine managed areas (MMAs). MPAs include the following classifications:

(1) State marine (estuarine) reserve, as defined in subdivision (a) of Section 36700.

(2) State marine (estuarine) park, as defined in subdivision (b) of Section 36700.

(3) State marine (estuarine) conservation area, as defined in subdivision (c) of Section 36700.

36620. The mission of the state MMA system is to ensure the long-term ecological viability and biological productivity of marine

ecosystems and to preserve cultural resources in the coastal sea, in recognition of their intrinsic value and for the benefit of current and future generations. In support of this mission, the Legislature finds and declares that there is a need to reexamine and redesign California's array of MMAs, to establish and manage a system using science and clear public policy directives to achieve all of the following objectives:

- (a) Conserve representative or outstanding examples of marine habitats, biodiversity, ecosystems, and significant natural and cultural features or sites.
- (b) Support and promote marine research, education, and science-based management.
- (c) Help ensure sustainable uses of marine resources.
- (d) Provide and enhance opportunities for public enjoyment of natural and cultural marine resources.

Article 2. Classifications, Designations, Restrictions, and Allowable Uses

36700. Six classifications for designating managed areas in the marine and estuarine environments are hereby established as described in this section, to become effective January 1, 2002. Where the term "marine (estuarine)" is used, it means that either the word "marine" or "estuarine" is to be used, as appropriate for the geographic area being designated. A geographic area may be designated under more than one classification.

(a) A "state marine (estuarine) reserve" is a nonterrestrial marine or estuarine area that is designated so the managing agency may achieve one or more of the following:

- (1) Protect or restore rare, threatened, or endangered native plants, animals, or habitats in marine areas.
- (2) Protect or restore outstanding, representative, or imperiled marine species, communities, habitats, and ecosystems.
- (3) Protect or restore diverse marine gene pools.
- (4) Contribute to the understanding and management of marine resources and ecosystems by providing the opportunity for scientific research in outstanding, representative, or imperiled marine habitats or ecosystems.

(b) A "state marine (estuarine) park" is a nonterrestrial marine or estuarine area that is designated so the managing agency may provide opportunities for spiritual, scientific, educational, and recreational opportunities, as well as one or more of the following:

- (1) Protect or restore outstanding, representative, or imperiled marine species, communities, habitats, and ecosystems.
- (2) Contribute to the understanding and management of marine resources and ecosystems by providing the opportunity for scientific

research in outstanding representative or imperiled marine habitats or ecosystems.

(3) Preserve cultural objects of historical, archaeological, and scientific interest in marine areas.

(4) Preserve outstanding or unique geological features.

(c) A “state marine (estuarine) conservation area” is a nonterrestrial marine or estuarine area that is designated so the managing agency may achieve one or more of the following:

(1) Protect or restore rare, threatened, or endangered native plants, animals, or habitats in marine areas.

(2) Protect or restore outstanding, representative, or imperiled marine species, communities, habitats, and ecosystems.

(3) Protect or restore diverse marine gene pools.

(4) Contribute to the understanding and management of marine resources and ecosystems by providing the opportunity for scientific research in outstanding, representative, or imperiled marine habitats or ecosystems.

(5) Preserve outstanding or unique geological features.

(6) Provide for sustainable living marine resource harvest.

(d) A “state marine (estuarine) cultural preservation area” is a nonterrestrial marine or estuarine area designated so the managing agency may preserve cultural objects or sites of historical, archaeological, or scientific interest in marine areas.

(e) A “state marine (estuarine) recreational management area” is a nonterrestrial marine or estuarine area designated so the managing agency may provide, limit, or restrict recreational opportunities to meet other than exclusively local needs while preserving basic resource values for present and future generations.

(f) A “state water quality protection area” is a nonterrestrial marine or estuarine area designated to protect marine species or biological communities from an undesirable alteration in natural water quality, including, but not limited to, areas of special biological significance that have been designated by the State Water Resources Control Board through its water quality control planning process.

36710. The following classifications may not be inconsistent with United States military activities deemed mission critical by the United States military:

(a) In a state marine (estuarine) reserve, it is unlawful to injure, damage, take, or possess any living geological, or cultural marine resource, except under a permit or specific authorization from the managing agency for research, restoration, or monitoring purposes. While, to the extent feasible, the area shall be open to the public for managed enjoyment and study, the area shall be maintained to the extent practicable in an undisturbed and unpolluted state. Access and use for activities such as walking, swimming, boating, and diving may be restricted to protect marine resources. Research, restoration, and monitoring may be permitted by the managing agency.

Educational activities and other forms of nonconsumptive human use may be permitted by the designating entity or managing agency in a manner consistent with the protection of all marine resources.

(b) In a state marine (estuarine) parks, it is unlawful to injure, damage, take, or possess any living or nonliving marine resource for commercial exploitation purposes. Any human use that would compromise protection of the species of interest, natural community or habitat, or geological, cultural, or recreational features, may be restricted by the designating entity or managing agency. All other uses are allowed, including scientific collection with a permit, research, monitoring, and public recreation, including recreational harvest, unless otherwise restricted. Public use, enjoyment, and education are encouraged, in a manner consistent with protecting resource values.

(c) In a state marine (estuarine) conservation area, it is unlawful to injure, damage, take, or possess any living, geological, or cultural marine resource for commercial or recreational purposes, or a combination of commercial and recreational purposes, that the designating entity or managing agency determines would compromise protection of the species of interest, natural community, habitat, or geological features. The designating entity or managing agency may permit research, education, and recreational activities, and certain commercial and recreational harvest of marine resources.

(d) In a state marine (estuarine) cultural preservation area, it is unlawful to damage, take, or possess any cultural marine resource. Complete integrity of the cultural resources shall be sought, and no structure or improvements that conflict with that integrity shall be permitted. No other use is restricted.

(e) In a state marine (estuarine) recreational management area, it is unlawful to perform any activity that, as determined by the designating entity or managing agency, would compromise the recreational values for which the area may be designated. Recreational opportunities may be protected, enhanced, or restricted, while preserving basic resource values of the area. No other use is restricted.

(f) In a state water quality protection area, point source waste and thermal discharges shall be prohibited or limited by special conditions. Nonpoint source pollution shall be controlled to the extent practicable. No other use is restricted.

36725. (a) The Fish and Game Commission may designate, delete, or modify state marine (estuarine) recreational management areas established by the commission for hunting purposes, state marine (estuarine) reserves, and state marine (estuarine) conservation areas. The Fish and Game Commission shall consult with, and secure concurrence from, the State Park and Recreation Commission prior to modifying or deleting state marine (estuarine)

reserves and state marine (estuarine) conservation areas designated by the State Park and Recreation Commission. The Fish and Game Commission shall not delete or modify state marine (estuarine) recreational management areas designated by the State Park and Recreation Commission.

(b) The State Park and Recreation Commission may designate, delete, or modify state marine (estuarine) reserves, state marine (estuarine) parks, state marine (estuarine) conservation areas, state marine (estuarine) cultural preservation areas, and state marine (estuarine) recreational management areas. The State Park and Recreation Commission may not designate, delete, or modify a state marine (estuarine) reserve, state marine (estuarine) park, or state marine (estuarine) conservation area without the concurrence of the Fish and Game Commission on any proposed restrictions upon, or change in, the use of living marine resources.

(c) If an unresolved conflict exists between the Fish and Game Commission and the State Park and Recreation Commission regarding a state marine (estuarine) reserve, state marine (estuarine) park, or state marine (estuarine) conservation area, the Secretary of the Resources Agency may reconcile the conflict.

(d) The State Water Resources Control Board may designate, delete, or modify state water quality protection areas.

(e) The Fish and Game Commission, State Park and Recreation Commission, and State Water Resources Control Board each may restrict or prohibit recreational uses and other human activities in the MMAs for the benefit of the resources therein, except in the case of restrictions on the use of living marine resources. Pursuant to this section, and consistent with Section 2860 of the Fish and Game Code, the Fish and Game Commission may regulate commercial and recreational fishing and any other taking of marine species in MMAs.

(f) (1) The Department of Fish and Game may manage state marine (estuarine) reserves, state marine (estuarine) conservation areas, state marine (estuarine) recreational management areas established for hunting purposes and, if requested by the State Water Resources Control Board, state water quality protection areas.

(2) The Department of Parks and Recreation may manage state marine (estuarine) reserves, state marine (estuarine) parks, state marine (estuarine) conservation areas, state marine (estuarine) cultural preservation areas, and state marine (estuarine) recreational management areas. Department authority over units within the state park system shall extend to units of the state MMAs system that are managed by the department.

(3) The State Water Resources Control Board and the California regional water quality control boards may take appropriate actions to protect state water quality protection areas. The State Water Resources Control Board may request the Department of Fish and



Game or the Department of Parks and Recreation to take appropriate management action.

36750. Any MMA in existence on January 1, 2002, that has not been reclassified in accordance with the Marine Life Protection Act (Chapter 10.5 (commencing with Section 2850) of Division 3 of the Fish and Game Code), shall be reclassified under the classification system described in Section 36700 by January 1, 2003, based upon the management purpose and level of resource protection at each site on January 1, 2002. Upon the reclassification of existing sites, but no later than January 1, 2003, the use of all other classifications shall cease for the marine and estuarine environments of the state, though the classifications may continue to be used for the terrestrial and freshwater environments where applicable. The reclassification process shall be the responsibility of the State Interagency Coordinating Committee established pursuant to Section 36800, and shall occur to the extent feasible in conjunction and consistent with the MMA master planning process created pursuant to the Marine Life Protection Act (Chapter 10.5 (commencing with Section 2850) of Division 3 of the Fish and Game Code).

36800. The Secretary of the Resources Agency shall establish and chair the State Interagency Coordinating Committee, whose members are representatives from those state agencies, departments, boards, commissions, and conservancies with jurisdiction or management interests over marine managed areas, including, but not limited to, the Department of Fish and Game, Department of Parks and Recreation, California Coastal Commission, State Water Resources Control Board, and State Lands Commission. The Secretary of the Resources Agency shall designate additional members of the committee. The committee shall review proposals for new or amended MMAs to ensure that the minimum required information is included in the proposal, to determine those state agencies that should review the proposal, and to ensure consistency with other such designations in the state. The committee shall also serve to ensure the proper and timely routing of site proposals, review any proposed site-specific regulations for consistency with the state system as a whole, and conduct periodic reviews of the statewide system to evaluate whether it is meeting the mission and statement of objectives.

36850. Designation guidelines based on the classification goals adopted for the state system of MMAs shall be developed jointly by the appropriate managing agencies in cooperation with the committee on or before January 1, 2002. These guidelines shall be used to provide a general sense of requirements for designating a site in any particular classification, and may include characteristics such as uniqueness of the area or resource, biological productivity, special habitats, cultural or recreational values, and human impacts to the

area. These designation guidelines shall be provided on a standard set of instructions for each classification.

36870. On or before January 1, 2002, the committee shall establish a standard set of instructions for each classification to guide organizations and individuals in submitting proposals for designating specific sites or networks of sites. On or before January 1, 2003, the relevant site proposal guidelines shall be adopted by each designating entity.

(a) At a minimum, each proposal shall include the following elements for consideration for designation as an MMA:

- (1) Name of individual or organization proposing the designation.
- (2) Contact information for the individual or organization, including contact person.
- (3) Proposed classification.
- (4) Proposed site name.
- (5) Site location.
- (6) Need, purpose, and goals for the site.
- (7) Justification for the manner in which the proposed site meets the designation criteria for the proposed classification.
- (8) A general description of the proposed site's pertinent biological, geological, and cultural resources.
- (9) A general description of the proposed site's existing recreational uses, including fishing, diving, boating, and waterfowl hunting.

(b) The following elements, if not included in the original proposal, shall be added by the proposed managing agency in cooperation with the individual or organization making the proposal, prior to a final decision regarding designation:

- (1) A legal description of the site boundaries and a boundary map.
- (2) A more detailed description of the proposed site's pertinent biological, geological, cultural, and recreational resources.
- (3) Estimated funding needs and proposed source of funds.
- (4) A plan for meeting enforcement needs, including on-site staffing and equipment.
- (5) A plan for evaluating the effectiveness of the site in achieving stated goals.
- (6) Intended educational and research programs.
- (7) Estimated economic impacts of the site, both positive and negative.
- (8) Proposed mechanisms for coordinating existing regulatory and management authority, if any exists, within the area.
- (9) An evaluation of the opportunities for cooperative state, federal, and local management, where the opportunities may exist.

36900. Individuals or organizations may submit a proposal to designate an MMA directly through the committee or an appropriate designating entity. Proposals submitted to a designating entity shall be forwarded to the committee to initiate the review process.

Proposals for designating, deleting, or modifying MMAs may be submitted to the committee or a designating entity at any time. The committee and scientific review panel established pursuant to subdivision (b) shall annually consider and promptly act upon proposals until an MPA master plan is adopted pursuant to subdivision (b) of Section 2859 of the Fish and Game Code, and thereafter, no less than once every three years. Upon adoption of a statewide MPA plan, subsequent site proposals determined by the committee to be consistent with that plan shall be eligible for a simplified and cursory review of not more than 45 days.

(a) The committee shall review proposals to ensure that the minimum required information is included in the proposal, to determine those state agencies that should review the proposal, and to ensure consistency with other designations of that type in the state. After initial review by the coordinating committee and appropriate agencies, the proposal shall be forwarded to a scientific review panel established pursuant to subdivision (b).

(b) The Secretary of the Resources Agency shall establish a scientific review panel, with statewide representation and direction from the committee, to evaluate proposals for technical and scientific validity, including consideration of such things as site design criteria, location, and size. This panel, to the extent practical, shall be the same as the master plan team used in the process set forth in the Marine Life Protection Act (Chapter 10.5 (commencing with Section 2850) of Division 3 of the Fish and Game Code). Members shall maintain familiarity with the types and effectiveness of MMAs used in other parts of the world for potential application to California. Members shall be reimbursed reasonable costs to participate in the activities of the panel. Where feasible, advice shall be sought from the appropriate federal agencies and existing regional or statewide marine research panels and advisory groups. After review by the scientific review panel, the committee shall forward the proposal and any recommendations to the appropriate designating entity for a public review process.

(c) Designating entities shall establish a process that provides for public review and comment in writing and through workshops or hearings, consistent with the legal mandates applicable to designating entities. All input provided by the committee and scientific review panel shall be made available to the public during this process. Outreach shall be made to the broadest ocean and coastal constituency possible, and shall include commercial and sport fishing groups, conservation organizations, waterfowl groups and other recreational interests, academia, the general public, and all levels of government.

(d) This process does not replace the need to obtain the appropriate permits or reviews of other government agencies with jurisdiction or permitting authority.



(e) Nothing in this section shall be construed as altering or impeding the process identified under the Marine Life Protection Act (Chapter 10.5 (commencing with Section 2850) of Division 3 of the Fish and Game Code) or the actions of the master plan team described in that act.

SEC. 23. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

